IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

-

WRIT PETITION NO : 6348 of 1995

Between:

T.Prabhakar Reddy S/o. T.Kishta Reddy
R/o. 2-2-482 Amberpet
Hyderabad

..... PETITIONER

AND

The Uppal Kalan Municipality, Upp-al-Kalan, R.R.Dist, through the Commissioner

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or a writ particularly one in the nature of Mandamus directing the respondent to forebear from interfering in petitioner's work of drawing water from his own borewell in Plot. No.31 part, in Sy.Nos. 42 and 43 of Ramantapur (v), R.R.Dist. and supplying the same for a price in general and in pursuance of Notice NO.E2/737/95 dt: 28/3/1995 issued by the 3rd respondent in particular i)Any other appropriate relief be awarded ii)Costs be awarded.

Counsel for the Petitioner: MR. B.V.BHAKSHI

Counsel for the Respondent: MR.G.THIMMA REDDY, STANDING COUNSEL

The Court made the following:

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Oral order:

This writ petition has been filed to forbear the respondents from interfering with the petitioner in drawing water from his borewell in Plot No. 31 Part, in Sy. Nos. 42 and 43 of Ramantapur village, Ranga Reddy District.

The petitioner claims to be owner and possessor of 200 Sq.yds of land in Plot No. 21 Part in Sy. Nos. 42 and 43, Ramantapur village, Ranga Reddy District. The petitioner, having dug a 6" borewell in the said plot, is engaged in supplying of water pumped out, to various establishments through tankers. When it was brought to the notice of the respondent, the respondent issued the impugned notice directing the petitioner not to sell the water, but to use the water pumped out through the bore well for his domestic needs. Assailing this notice, the petitioner filed the present writ petition, praying for the relief stated in the preliminary paragraph.

The Commissioner on behalf of Uppal Kalan Municipality filed counter stating that the plot of the petitioner is located in a residential area. The residents of that area have dug 4" bore wells in their plots and are using the water drawn for their domestic needs, while the petitioner has dug 6" bore well and is drawing out water from the said bore well for commercial purposes indiscriminately, and to arrest the indiscriminate drawing of water by the petitioner, and to stop the nuisance caused by the tankers used for transporting water, the residents have lodged several complaints. The drawing out of water by the petitioner for commercial purposes is not in accordance with the Water Supply (House Service Connection) Rules, 1977 and it offends the latest enactment of the A.P. State Legislative Assembly, which prohibits digging bore wells deep into the soil and in residential places, and more so for commercial purposes. If the petitioner is allowed to draw out water indiscriminately, there is every likelihood of the ground water table of the area, being affected adversely. He, thus prayed that the interim order be vacated and the writ petition dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Municipality.

The respondents, no doubt have power to take action against the petitioner for drawing out water indiscriminately from the bore well for commercial purposes, for it is not only causing nuisance to the residents of the locality, but there is also likelihood of the ground water table in the area being adversely affected, but it is required to notice that the notice issued to the petitioner, does not disclose under what provision of law, the notice has been issued, though the respondents state that the indiscriminate drawing of ground water offends Water Supply (House Service Connections) Rules, 1977 and the latest enactment of the A.P. State Legislative Assembly on the subject. When any action is to be taken against a person, the notice so issued should be clear so that the person to whom notice is issued, will be in a position to submit his reply to the same.

Inasmuch as the notice issued to the petitioner does not disclose under what provision of law it has been issued, I deem it appropriate to set aside the same, and dispose of the writ petition with the following directions:

The respondents are at liberty to take appropriate action against the petitioner

under the law under which they propose to take by following the procedure established thereunder. No costs.

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N.V. RAMANA, J.

Date: 2-9-2004.

KSR

ASSISTANT REGISTRAR

// **TRUE COPY** //

SECTION OFFICER

To

1. The Commissioner, Uppal Kalan Municipalityf, Upp-al-Kalan,

Ranga Reddy District.

2. Two CD copies.